

In re Application of  
Huang et al.  
Application No. 10/803,557  
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Atty. Dkt. No. 034827-1402

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REMARKS

By the present communication, claims 2-16 are pending in the instant application. Claim 1 has been cancelled without prejudice. Claims 2-5, 7-13 and 15-16 have been amended. Claims 4, 11 and 12 have been rewritten in independent form including all of the limitations of the original base claim and any intervening claims. Claims 2, 3, 5, 7, 8, 9, 13, 15 and 16 have been amended to depend from the rewritten independent claims. Support for the amendments to the claims can be found throughout the specification and claims as originally filed. For example, support for labeled ddNTPs as used in claim 10 can be found at paragraph [0018]. Thus, the amendments do not raise any issue of new matter.

Applicant acknowledges with gratitude the indication of allowability of claims 4 and 12 if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has therefore amended claims 4 and 12 to put them in condition for allowance. In addition, claim 11 has been rewritten in independent form and amended to recite fewer polymorphisms, thereby obviating all prior art rejections. By amendment of claim 11, Applicant only desires to expedite prosecution and does not acquiesce to the propriety of the prior art rejections. Accordingly, Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons which follow.

**Rejection of claim 10 under 35 U.S.C. § 112, Second Paragraph, Indefiniteness**

The Examiner has rejected claim 10 under 35 U.S.C. § 112, second paragraph, because the language "wherein comprise" is allegedly confusing. Claim 10 has been amended to recite "wherein said labeled ddNTPs comprise," which passage finds antecedent basis in claim 9. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection.

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**Rejection of claims 1-3, 5,7,11,13,15 and 16 under 35 U.S.C. § 102(e)**

The rejection of claims 1-3, 5,7,11,13,15 and 16 under 35 U.S.C. § 102(e), as allegedly anticipated by Nguyen et al. (US Patent No. 6,171,788), is respectfully traversed. Applicant respectfully disagrees that Nguyen et al. discloses the claimed invention. As amended, all pending rejected claims depend from claims 4, 11 and/or 12. Claims 4 and 12 are not subject to this rejection. In addition, claim 11 no longer recites the MT-1 genotype. Thus, Applicant respectfully submits that this rejection has been rendered moot with respect to all the rejected claims.

**Rejection of claims 1-3, 5,7,11,13,15 and 16 under 35 U.S.C. § 102(e)**

The rejection of claims 1-3, 5,7,11,13,15 and 16 under 35 U.S.C. § 102(e), as allegedly anticipated by Stone et al. (US Patent No. 6,403,307), is respectfully traversed. Applicant respectfully disagrees that Stone discloses the claimed invention. As amended, all pending rejected claims depend from claims 4, 11 and/or 12. Claims 4 and 12 are not subject to this rejection. In addition, claim 11 no longer recites the T377M genotype. Thus, Applicant respectfully submits that this rejection has been rendered moot with respect to all the rejected claims.

**Rejection of claims 6, 8-10 and 14 under 35 U.S.C. § 103**

The rejection of claims 6, 8-10 and 14 under 35 U.S.C. § 103(a), as allegedly being obvious over either of Nguyen or Stone is respectfully traversed. Applicant respectfully disagrees with the Examiner's assertion that claims 6, 8-10 and 14 are obvious over either Nguyen or Stone. As described above, all dependent claims are now amended to depend from claims 4, 11 and/or 12, none of which are included in this rejection. Accordingly, Applicant respectfully submits that this rejection has been rendered moot.

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Conclusion

In view of the above amendments and remarks, reconsideration and favorable action on all claims are respectfully requested. In the event any matters remain to be resolved in view of this communication, the Examiner is encouraged to contact the undersigned so that a prompt disposition of this application can be achieved.

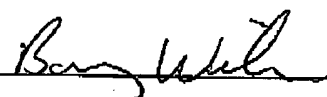
The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

Date

01/26/2007

By



FOLEY & LARDNER LLP  
Customer Number: 30542  
Telephone: (858) 847-6767  
Facsimile: (858) 792-6773

Richard J. Warburg, Reg. No. 32,327  
By Barry S. Wilson, Reg. No. 39,431  
Attorneys for Applicant

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